

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et
al.*,

Debtors.¹

PROMESA
Title III
No. 17 BK 3283-LTS
(Jointly Administered)

**NOTICE OF HEARING FOR OBJECTION OF
PUERTO RICO SALES TAX FINANCING CORPORATION TO
PROOF OF CLAIM OF THE TRAVELERS INDEMNITY COMPANY
AND ITS PROPERTY CASUALTY AFFILIATES (CLAIM NO. 28773)**

PLEASE TAKE NOTICE that, on December 19, 2018, the Puerto Rico Sales Tax Financing Corporation (“COFINA”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as COFINA’s representative pursuant to Section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² filed the *Objection of Puerto Rico Sales Tax Financing Corporation to Proof of Claim of The Travelers Indemnity Company and its Property Casualty Affiliates (Claim No. 28773)* (the “Objection”) with the United States District Court for the District of Puerto Rico (the “Court”),

¹ The Debtors in these Title III Cases, along with each Debtor’s respective Title III case number and the last four (4) digits of each Debtor’s federal tax identification number, as applicable, are the (i) Commonwealth of Puerto Rico (the “Commonwealth”) (Bankruptcy Case No. 17 BK 3283-LTS) (Last Four Digits of Federal Tax ID: 3481); (ii) Puerto Rico Sales Tax Financing Corporation (“COFINA”) (Bankruptcy Case No. 17 BK 3284-LTS) (Last Four Digits of Federal Tax ID: 8474); (iii) Puerto Rico Highways and Transportation Authority (“HTA”) (Bankruptcy Case No. 17 BK 3567-LTS) (Last Four Digits of Federal Tax ID: 3808); (iv) Employees Retirement System of the Government of the Commonwealth of Puerto Rico (“ERS”) (Bankruptcy Case No. 17 BK 3566-LTS) (Last Four Digits of Federal Tax ID: 9686); and (v) Puerto Rico Electric Power Authority (“PREPA” and together with the Commonwealth, COFINA, HTA, and ERS, the “Debtors”) (Bankruptcy Case No. 17 BK 4780-LTS) (Last Four Digits of Federal Tax ID: 3747) (Title III case numbers are listed as Bankruptcy Case numbers due to software limitations).

² PROMESA is codified at 48 U.S.C. §§ 2101-2241.

seeking to disallow in its entirety Proof of Claim No. 28773 filed by The Travelers Indemnity Company and its Property Casualty Affiliates.

PLEASE TAKE FURTHER NOTICE that any response to the Objection must be filed in writing with the Court and must be served upon and received by the undersigned counsel for COFINA by **4:00 pm (Atlantic Time) on February 26, 2019.**

PLEASE TAKE FURTHER NOTICE that, in the event that one or more responses to the Objection are timely filed, the Objection shall be considered by The Honorable Laura Taylor Swain, at the United States District Court for the District of Puerto Rico, 150 Carlos Chardón Street, Federal Building, San Juan, Puerto Rico 00918-1767, at **9:30 a.m. on March 13, 2019.**

PLEASE TAKE FURTHER NOTICE THAT, IF NO RESPONSES TO THE OBJECTION ARE TIMELY FILED, SERVED, AND RECEIVED, IN ACCORDANCE WITH THIS NOTICE, THE COURT MAY GRANT THE RELIEF REQUESTED IN THE OBJECTION WITHOUT FURTHER NOTICE OR HEARING.

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PLEASE TAKE FURTHER NOTICE that copies of all documents filed in these Title III Cases are available (a) free of charge by visiting <https://cases.primeclerk.com/puertorico> or by calling +1 (844) 822-9231, and (b) on the Court's website at <http://www.prd.uscourts.gov>, subject to the procedures and fees set forth therein.

Dated: December 19, 2018
San Juan, Puerto Rico

Respectfully submitted,

/s/ Hermann D. Bauer

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et
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Debtors.¹

PROMESA
Title III
No. 17 BK 3283-LTS
(Jointly Administered)

**OBJECTION OF PUERTO RICO SALES TAX FINANCING CORPORATION
TO PROOF OF CLAIM OF THE TRAVELERS INDEMNITY COMPANY AND ITS
PROPERTY CASUALTY AFFILIATES (CLAIM NO. 28773)**

The Puerto Rico Sales Tax Financing Corporation (“COFINA”), by and through the Financial Oversight and Management Board for Puerto Rico (the “Oversight Board”), as COFINA’s representative pursuant to Section 315(b) of the *Puerto Rico Oversight, Management, and Economic Stability Act* (“PROMESA”),² files this objection (the “Objection”) to the claim (Proof of Claim No. 28773) of the Travelers Indemnity Company and its Property Casualty Affiliates (“Claimant”), and in support of the Objection, respectfully represents as follows:

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² PROMESA is codified at 48 U.S.C. §§ 2101-2241.

JURISDICTION

1. The United States District Court for the District of Puerto Rico has subject matter jurisdiction over this matter pursuant to PROMESA section 306(a).
2. Venue is proper in this district pursuant to PROMESA section 307(a).

BACKGROUND

3. COFINA is a public corporation and instrumentality of the Commonwealth constituting a corporate and political entity independent and separate from the Commonwealth, created under Act No. 91 of the Legislative Assembly of the Commonwealth.

4. On May 5, 2017, the Oversight Board, at the request of the Governor, issued a restructuring certification pursuant to PROMESA sections 104(j) and 206 and filed a voluntary petition for relief for COFINA, pursuant to PROMESA section 304(a), commencing a case under Title III thereof (the “COFINA Title III Case”).

5. On or about May 29, 2018, the Claimant filed a claim against COFINA for “rights to payment ... arising out of or relating to certain contracts, tort claims and principles of common law and equity,” which was logged by Prime Clerk as Proof of Claim No. 28773 (the “Claim”).

OBJECTION TO PROOF OF CLAIM

6. This Objection seeks to disallow a claim for which COFINA is not liable. Claims that are “unenforceable against the debtor and property of the debtor, under any agreement or applicable law” should be disallowed. 11 U.S.C. § 502(b)(1). Courts are authorized to disallow tort and contract based claims “if they are not sustainable at law.” *In re Chateaugay Corp.*, 111 B.R. 67, 73-74 (Bankr. S.D.N.Y. 1990); *see also In re L JL Truck Center, Inc.*, 299 B.R. 663, 668-69 (Bankr. M.D. Ga. 2003) (“Because the Creditors have failed to prove certain essential terms of the contract, the Court is unable to conclude that they are entitled to damages for breach of contract.

Because the Creditors have also failed to prove an enforceable tot claim, the Court will disallow their claim in its entirety.”).

7. Here, Claimant asserts liabilities “arising out of or relating to certain contracts, tort claims and principles of common law and equity.” However, Claimant provided no evidence of any contract, tort or other claim that has actually arisen between COFINA and Claimant, let alone demonstrated the amount of any such claim. Claimant does not reference any contracts between itself and COFINA which might give rise to liability. Moreover, Claimant has not provided any facts to support the existence of any tort claims against COFINA. Because Claimant has not alleged any legally sufficient basis for its alleged right to payment on tort or contract claims, Claimant has not shown that it holds an enforceable claim against COFINA.

8. In addition, to the extent the Claim is allowed, it may be subject to subordination on one or more grounds. COFINA expressly reserves its right to make additional substantive objections or to request that the Claim be subordinated.

RESERVATION OF RIGHTS

9. This Objection is limited to the grounds stated herein. Accordingly, it is without prejudice to the rights of COFINA to object to the Claim or any other claim on any ground whatsoever. COFINA expressly reserves all further substantive or procedural objections. Nothing contained herein or any actions taken pursuant to such relief is intended or should be construed as: (a) an admission as to the validity of any claim against COFINA; (b) a waiver of COFINA’s right to dispute any claim on any grounds; (c) a promise or requirement to pay any claim; (d) a request or authorization to assume any prepetition agreement, contract, or lease pursuant to section 365 of the Bankruptcy Code; or (e) a waiver of COFINA’s rights under PROMESA, the Bankruptcy Code or any other applicable law.

NOTICE

10. COFINA has provided notice of this Objection to (a) the individual creditor subject to this Objection, (b) the U.S. Trustee, and (c) the Master Service List (as defined by the *Order Further Amending Case Management Procedures* [ECF No. 3804]), which is available on the Debtors' case website at <https://cases.primeclerk.com/puertorico>. COFINA submits that, in light of the nature of the relief requested, no other or further notice need be given.

NO PRIOR REQUEST

11. No prior request for the relief sought in this Objection has been made to this or any other court.

[Remainder of page intentionally left blank.]

WHEREFORE COFINA respectfully requests entry of an order, substantially in the form of the Proposed Order attached hereto as **Exhibit A**, (1) granting the relief requested herein, and (2) granting COFINA such other and further relief as is just.

Dated: December 19, 2018
San Juan, Puerto Rico

Respectfully submitted,

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EXHIBIT A

Proposed Order

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

In re:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD FOR PUERTO RICO,

as representative of

THE COMMONWEALTH OF PUERTO RICO, *et
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Debtors.¹

PROMESA
Title III
No. 17 BK 3283-LTS
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**ORDER GRANTING OBJECTION OF PUERTO RICO SALES TAX
FINANCING CORPORATION TO PROOF OF CLAIM OF THE
TRAVELERS INDEMNITY COMPANY AND ITS PROPERTY CASUALTY
INSURANCE AFFILIATES (CLAIM NO. 28773)**

Upon the *Objection of Puerto Rico Sales Tax Financing Corporation to Proof of Claim of The Travelers Indemnity Company and its Property Casualty Insurance Affiliates (Claim No. 28773)* (the “Objection”), dated December 19, 2018, of the Puerto Rico Sales Tax Financing Corporation (“COFINA”) for entry of an order disallowing in its entirety the claim of The Travelers Insurance Company and its Property Casualty Insurance Affiliates (Proof of Claim No. 28773) (the “Claim”), as more fully set forth in the Objection; and the Court having jurisdiction to consider the Objection and to grant the relief requested therein pursuant to Section 306(a) of

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PROMESA²; and venue being proper pursuant to Section 307(a) of PROMESA; and due and proper notice of the Objection having been provided to those parties identified therein, and no other or further notice being required; and the Court having determined that the relief sought in the Objection is in the best interest of COFINA, its creditors, and all the parties in interest; and the Court having determined that the legal and factual bases set forth in the Objection establish just cause for the relief granted herein; and after due deliberation and sufficient cause appearing therefor, it is hereby

ORDERED that the Objection is GRANTED as set forth herein; and it is further

ORDERED that the Claim is hereby disallowed in its entirety; and it is further

ORDERED that Prime Clerk is authorized and directed to delete the Claim from the official claims register in the COFINA Title III Case; and it is further

ORDERED that this Court shall retain jurisdiction to hear and determine all matters arising from or related to the implementation, interpretation, or enforcement of this Order.

Dated: _____

Honorable Judge Laura Taylor Swain
United States District Judge

² Capitalized terms used but not defined herein shall have the meanings set forth in the Objection.